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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/806,557	03/23/2004	Joseph M. Piana	LPOR-05	2564
26875	7590	06/02/2005	EXAMINER	
WOOD, HERRON & EVANS, LLP 2700 CAREW TOWER 441 VINE STREET CINCINNATI, OH 45202			SANTOS, ROBERT G	
			ART UNIT	PAPER NUMBER
			3673	

DATE MAILED: 06/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/806,557	PIANA ET AL	
	<b>Examiner</b>	<b>Art Unit</b>	
	Robert G. Santos	3673	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

**A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM  
 THE MAILING DATE OF THIS COMMUNICATION.**

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) Responsive to communication(s) filed on 03/23/2004, 08/06/2004 and on 08/10/2004.

2a) This action is **FINAL**.                            2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) Claim(s) 1-16 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1,2,6,10-12 and 14-16 is/are rejected.

7) Claim(s) 3-5,7-9 and 13 is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date 08062004, 08102004.

4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_.  
 5) Notice of Informal Patent Application (PTO-152)  
 6) Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Claim Objections***

1. Claims 5 and 8 are objected to because of the following informalities:
  - 1) In the first line of claim 5: The term “portions” should be changed to --portion--.
  - 2) In the second line of claim 8: ---- should be inserted after the term “channel.”  
Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 2, 6, 15 and 16 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by U.S. Pat. No. 3,997,926 to England (note especially Figures 1, 4, 5 & 10 and column 4, lines 16-31).
4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1, 2, 6, 10-12, 14 and 15 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by WO Pat. No. 2004/028306 to Gladney (note especially Figures 6-8; page 5, lines 23-30; and page 8, lines 8-29).

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 10-12 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Langdale '997 in view of England '926. Langdale '997 teaches the use of an adjustable bed (10) comprising a mattress (26) secured to an articulating frame (18, 22) by straps (28) as opposed to being attached by a bracket configured to engage the taped edge border of the mattress as claimed. England '926 provides the basic teaching of a bed (10) comprising a mattress (35), a movable support surface (28) for the mattress, and a bracket (32) which engages the taped edge border (36) of the mattress to secure the mattress to the support surface. The skilled artisan would have found it obvious at the time the invention was made to replace the straps of the articulating bed of Langdale '997 with brackets configured to engage the taped edge border of the mattress as taught by England '926 in order to provide a simple alternative means for ensuring proper attachment and placement of the mattress on the support surface (when the bed is moved or tilted) as desired (see England '926, column 4, lines 27-31).

***Allowable Subject Matter***

8. Claims 3-5, 7-9 and 13 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The examiner respectfully asserts that one of ordinary skill in the art would not have found it obvious at the time the invention was made to modify the respective brackets disclosed in the England '926 and Gladney '306 references to include the particular configuration of the second bracket portion as explicitly recited in claims 3 and 13.

***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Weinman '396, Gladney '265, Weinman '762, Smith '732, Smith '305, Antinori '992, Antinori '783, Houchin '091, Antinori '283, Galumbeck '404, Whitehead '371, Zuniga '754, Kalning et al. '954, Spitz '887, Jones '098 and Mellon '656.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert G. Santos whose telephone number is (571) 272-7048. The examiner can normally be reached on Tues-Fr and first Mondays, 10:30 a.m. to 8:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather C. Shackelford can be reached on (571) 272-7049. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3673

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Robert G. Santos  
Primary Examiner  
Art Unit 3673

R.S.  
May 30, 2005